

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: FEB 04 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALLSTATE INSURANCE COMPANY :
a/s/o MARC CHERON, :

Plaintiff, :

-against- :

THE UNITED STATES OF AMERICA, :

Defendant. :

----- x

No. 15-cv-8546 (KBF)

**STIPULATION AND ORDER OF
DISMISSAL**

WHEREAS, Plaintiff Allstate Insurance Company, as subrogor of Marc Cheron, filed a complaint on October 30, 2015 against Defendant, the United States of America, alleging negligence leading to damages sustained by plaintiff's subrogee, under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671 *et seq.*;

WHEREAS, Defendant filed an answer to the complaint on December 29, 2015;

WHEREAS, the parties in the above-captioned action have communicated in good faith for the purpose of resolving this matter and agree that Defendant is an inappropriate party to this lawsuit;

WHEREAS, Plaintiff intends to bring suit in New York State court against the proper, private party as defendant under New York common law;

WHEREAS, none of the parties in the above-captioned action is an infant or incompetent person;

IT IS HEREBY STIPULATED AND AGREED by and between the parties and/or their respective counsel that, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, the above-captioned action is hereby dismissed without prejudice and discontinued as to the named

Defendant, subject to Plaintiff's right to reinstate the action upon filing of notice within one year from the date that this Order is entered.

Dated: Brooklyn, New York
February 2, 2016

Dated: New York, New York
February 1, 2016

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United States Attorney
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SO ORDERED.

K.B. Forrest
The Hon. Katherine B. Forrest
United States District Judge

Dated: New York, New York
February 4, 2016